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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,197	10/24/2005	Kiyohiro Saito	28955.1056	2646
27890 7590 05/14/2010 STEP TOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036				
EXAMINER				
LE, NINH V				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
05/14/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/554,197

**Applicant(s)**

SAITO ET AL.

**Examiner**

Ninh V. Le

**Art Unit**

1791

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Joseph S. Del Sole/  
Supervisory Patent Examiner, Art Unit 1791

Continuation of 3. NOTE: Applicant has amended claims 2 and 12 in an effort to put the application in condition for allowance. However, applicant's amendment whereby dependent claims 33 and 34 have been added to independent claims 2 and 12 respectively has introduced new issues such that the limitation of "a vibrator attached to an ultrasonic oscillator" as recited in amended claims 2 line 9 was not previously presented (see Office action dated 1/29/10 on pages 13-14). Similarly, the limitation of "a vibrator attached to the ultrasonic vibrator" as recited in amended claim 12 line 10 was not previously presented (see Office action dated 1/29/10 on page 21). As a result, a further consideration and search will be required since new issues have been raised.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 4/29/10 have been fully considered but they are not persuasive. Regarding amended claims 2 and 12, applicant argued Sato's cavity 4 is distinct from applicants' claimed resin pit which is located at a halfway part of applicants' claimed runner which connects the product cavities. Additionally, applicant alleged that Sato failed to disclose applicants' claimed vibrator inserted into a through-hole which communicates with the resin pit and applies ultrasonic vibration to the resin material in the resin pit, wherein a tip of the vibrator forms a bottom of the resin pit. Furthermore, applicant argued that the advantages to applicant's molding method is that it achieves superior molding accuracy and quality. In response, the Examiner disagrees. Regarding applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this instance, Nishimoto '360 discloses a runner (49), cavities (3) connected to the runner (49), and a resin pit which is represented by the portion below the eject pin (35) and above the point where the sprue (48) and runner (49) intersects as shown in Figures 2 and 10. This resin pit is half way point of runner (49). Additionally, Nishimoto '360 discloses molten resin filling the cavity (3), runner (49), and the resin pit as shown in Figure 10. Sato '938 on the other hand, discloses a vibrator comprising of an ultrasonic vibrator (8), vibrating conversion body (7), and an n-wavelength resonant body (9) ([0019] and [0024]) whereby the vibrating conversion body (7) is inserted in a through-hole of of moveable die attachment component (31) as shown in Drawings 1-2. The ultrasonic vibrator (8), vibrating conversion body (7), and an n-wavelength resonant body (9) communicates with cavity (4) and the n-wavelength resonant body (9) which is the tip of the vibrator forms a bottom of cavity (4) ([0019]) as shown in Drawings 1-2. Furthermore, Nishimoto '360 teaches molding material being supplied to the cavity (4) while ultrasonic vibration is applied to the whole mold ([0024]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching Nishimoto '360 with that of Sato '938 by combining the molding method in which a molten resin is injected from an injection apparatus and filled into the product cavity and compressed as disclosed by Nishimoto '360 with the use of an ultrasonic vibration while in a compressed state as disclosed by Sato '938 for the benefit of shortening the molding cycle, eliminating transfer unevenness (Sato '938, Page 9 Paragraph [0043]), preventing gradual cooling of a resin during molding (Sato '938, Abstract), and maximizing the packing density of the solidified resin material. In response to applicant's advantages, it is submitted that the foregoing benefits such as the elimination of transfer unevenness and prevention of gradual cooling of the resin during molding addresses applicant's alleged unexpected result of superior molding accuracy and quality respectively. The Examiner would like to note that the claim rejection under 35 USC 112 for claims 9,28, and 33 currently remains, however if the proposed amendment was entered, then the objection would be overcome.